

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**JOHN M. NICOL and CARILLON P.
NICOL,**

Plaintiffs,

v.

**WELLS FARGO BANK, N.A., and
CAL-WESTERN RECONVEYANCE
CORPORATION,**

Defendants.

Case No. 3:13-cv-1903-HU

**ORDER OPTING FINDINGS AND
RECOMMENDATION**

Michael H. Simon, District Judge.

United States Magistrate Judge Dennis J. Hubel issued Findings and Recommendation in this case on May 13, 2014. Dkt. 11. Judge Hubel recommended that Defendants' motion for summary judgment (Dkt. 5) be granted. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1)(C). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Hubel’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Hubel’s Findings and Recommendation, Dkt. 11. Defendants’ motion for summary judgment (Dkt. 5) is GRANTED. This case is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 13th day of June, 2014.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge